

Ashraf Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/49759

Court : Kerala

Decided On : Mar-31-2015

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Ashraf

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID TUESDAY, THE 31^T DAY OF MARCH 2015 10TH CHAITHRA, 1937 CrI.MC.No. 1864 of 2015 ()
----- AGAINST THE

ORDER

IN CRRP172015 of DISTRICT & SESSIONS COURT, KOZHIKODE AGAINST CMP7852015 of J.M.F.C., NADAPURAM CRIME NO. 62/2015 OF NADAPURAM POLICE STATION , KOZHIKODE PETITIONER/REVISION PETITIONER/ACCUSED: ----- ASHRAF AGED 43 YEARS S/O. KUNHABDULLA, KOTTAKKOO HOUSE, PERUMUNDASSERI KUMMAMKODE, NADAPURAM, KOZHIKODE DIST. BY ADV. SRI.C.M. MOHAMMED IQUBAL RESPONDENT(S)/STATE & COMPLAINANT: ----- 1. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM 2 THE STATION HOUSE OFFICER NADAPURAM POLICE

STATION, POST NADAPURAM KOZHIKODE DISTRICT R1,R2 BY PUBLIC PROSECUTOR SMT.S.HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON3103-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No. 1864 of 2015 () ----- APPENDIX PETITIONER(S)' EXHIBITS ----- ANNEXURE A1:THE TRUE COPY OF THE FIR IN CRIME NO.62/2015 OF NADAPURAM POLICE STATION DATED151.2015 ANNEXURE A2:THE TRUE COPY OF CMP NO.785/2015 ON THE FILE OF JFCM NADAPURAM DATED0202.2015 ANNEXURE A3:THE TRUE COPY OF THE

ORDER

IN CMP NO.785/2015 DATED0402.2015 OF JFCM NADAPURAM ANNEXURE A4:THE TRUE COPY OF THE CRL.RP.NO.17/2015 ON THE FILE OF THE DISTRICT AND SESSIONS COURT, KOZHIKODE DATED0902.2015 ANNEXURE A5:THE CERTIFIED COPY OF THE

ORDER

IN CRL.RP.NO.17/2015 DATED2802.2015 OF THE SESSIONS COURT, KOZHIKODE RESPONDENT(S)' EXHIBITS ----- /TRUE COPY/ P.S TO JUDGE P.UBAID, J.

~~~~~ Crl.M.C No.1864 of 2015 ~~~~~ Dated this the 31st March, 2015

ORDER

The petitioner herein obtained a passport from the Regional Passport Office, Thiruvananthapuram in June 2009 by showing some address in the Thiruvananthapuram District. He is actually a resident of Nadapuram in Kozhikode District. Subsequently, he obtained another passport from the Regional Passport Office, Kozhikode by showing his correct residential address. On the basis of some reliable information that the petitioner has two passports, the Police conducted a search in the house of the petitioner on 15.1.2015 and seized the two passports. A crime was registered against him under Section 10 (3) (b) read with Section 12 (b) of the Passport Act. On verification, the police found that the first

passport was in fact obtained by the petitioner by producing some false documents. But as regards the second passport, the police does not have any doubt presently. It was obtained by showing the correct address and without producing any CrI.M.C No.1864 of 2015 2 false document. The petitioner is a person having some business activities in U.A.E. He has some employees under him working there and he wants to go abroad for his business purposes. He made an application before the learned Magistrate having jurisdiction under Section 451 Cr.P.C for interim custody of the first passport obtained by him from the Regional Passport Office, Thiruvananthapuram. The learned Magistrate disallowed the request. The petitioner preferred a revision before the Court of Session, Kozhikode against the said order as CrI.R.P.17 of 2015. The learned Sessions Judge concurred with the findings of the learned Magistrate, and accordingly dismissed the revision petition. The petitioner is now before this Court under Section 482 of the Code of Criminal Procedure, being aggrieved by the orders of the courts below, and he seeks a direction from this Court to release his passport. What he requires is the first passport obtained from the Regional Passport Office, Thiruvananthapuram.

2. On hearing both sides, and on a perusal of the police report, I find that presently the police has no dispute or doubt regarding the passport obtained by the petitioner CrI.M.C No.1864 of 2015 3 from the Regional Passport Office, Kozhikode by showing the correct residential address and other details, and without producing any false document. But the first passport was allegedly obtained by producing some false documents. It is submitted that appropriate steps will have to be taken by the competent authority to impound the two passports. As regards the first passport, such a course is possible, if it was obtained by suppression of facts or by producing some false documents. As regards the second passport also, such a procedure is possible, because he obtained the second passport without surrendering the first one, and by suppressing the first passport. Till the passport is impounded under the law, the second passport, obtained by the petitioner without suppression of facts and by furnishing his correct address and other details, will have validity. In the present circumstances where his concern is the employees working under him abroad, he can be permitted to go abroad and come back within a reasonable time. Further

orders regarding passport, or whether it could be again released to him for travel purposes etc, will have to be decided by the trial court, subject to the steps taken by the Crl.M.C No.1864 of 2015 4 authorities for impounding the passport. It is submitted by the learned Public Prosecutor that both the passports are liable to be impounded. Anyway, in the present circumstance where the second passport was obtained legally, however, without surrendering the first one, the petitioner can be permitted to go abroad by using the second passport for a reasonable period. For the said purpose, he can make proper application before the learned Magistrate. The present application is only for the first passport. The said passport cannot be released to him in view of the definite allegation that it was obtained by him by producing some false documents. The said passport is definitely liable to be impounded. In the result, this Crl.M.C is disposed of as follows: (a) The petitioner's request to release the first passport obtained from the Regional Passport Office, Thiruvananthapuram with No.H391106 will stand disallowed. (b) The petitioner can be permitted to go abroad for a period of ten months for his business purposes by using the Passport No.K623952 obtained from the Passport Office, Crl.M.C No.1864 of 2015 5 Kozhikode legally. The period of ten months will start from the date on which the passport is released. ) The petitioner can make proper application before the learned Magistrate with appropriate prayers regarding the second passport, as permitted by this Court. (d) The petitioner will have to surrender the second passport released to him from the court below on the eve of expiry of the period of ten months granted by this Court. (e) The learned Magistrate will release the Passport No.K.6239572 to the petitioner on application, on appropriate conditions including security deposit. (f) The question of releasing the passport further, after the expiry of ten months for travel purpose or otherwise, will be decided by the learned Magistrate, subject to the proceedings initiated by the passport authorities, if any, to impound the passport. Sd/- P.UBAID JUDGE  
ma /True copy/ P.S to Judge